IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICGTION

INCOME TAX REFERENCE NO. 55 of 1989

The Commissioner of Income Tax ... Applicant.

vs.

M/s. Sushripada Investment P.Ltd. ... Respondent

Mr. Ashok Kotangale, Sr. Counsel with
Mr. D.A. Dubey i/b. K.C. Sidhwa for Applicant.

CORAM: V**. C. DAGA AND A. S. AGUIAR JJ.**

Date: 26th July, 2005.

P. C.:

1. By this reference under section 256 (1) of the Income Tax Act , 1961, the Income Tax Appellate Tribunal has referred the following questions of law for the opinion of this court:

> "Whether on the facts and circumstances of the case, the assessee had the option to carry forward the loss relating to short term capital assets without setting it off against the income under any other head in accordance with the provisions of section 71(3) read with section 74 (1)(a)(i)?

2. Heard learned counsel for both sides. Perused reference proceedings.

3. For the reasons recorded by us in our judgment dated 1st July 2005 passed in Income Tax Reference No. 397 of 1988 (**C.I.T. vs. M/s.**

Pithwa Engg. Works), wherein we have relied upon decision of this court in the case of **Commissioner of Income-tax v/s. Camco Colour Co.,** reported in ITR Vol. 254 (2002), page 565 we do not think it necessary to answer the reference made to this Court for the Assessment Years 1976-77 and 1977-78, having negligible tax effect. Accordingly, reference stands returned unanswered with no order as to costs.

(A. S. AGUIAR J.) (V. C. DAGA J.)